

**COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department of Tele-
communications and Energy Upon Its Own
Motion Commencing a Notice of Inquiry/
Rulemaking, Pursuant to 220 C.M.R. " 2.00 et seq.,
Establishing Procedures to be Followed in Electric
Industry Restructuring by Electric Companies
Subject to G.L. c. 164

D.P.U. 96-100

COMMENTS OF MC² INC.

In a January 15, 1998 Order in D.P.U. 96-100, the Department of Telecommunications and Energy (DTE) proposed regulations to be promulgated pursuant to authority set forth in the Electric Industry Restructuring Act, Chapter 164 of the Acts of 1997 (Act). In the Order, the DTE solicits general comments on the proposed regulations, and on specific issues raised by the DTE in the Order. mc² Inc. (mc²) hereby submits its Comments.

INTRODUCTION

mc² is the retail energy sales unit of Chicago-based MidCon Corp., and has its principal place of business at 701 East 22nd Street, Lombard, Illinois 60148-5072. MidCon Corp. is a Delaware corporation and is a wholly owned subsidiary of Occidental Petroleum Corporation, headquartered in Los Angeles, California.¹ MidCon Corp. through its subsidiaries, sells, stores or delivers about 10 percent of the natural gas

¹ On December 18, 1997, KN Energy, Inc. based in Lakewood, Colorado announced its intention to purchase MidCon Corp.

consumed in the United States annually. mc² and its affiliates sell natural gas and electricity to end-users and local distribution companies throughout the United States. mc² intends to sell energy at retail in the Commonwealth of Massachusetts if the regulatory and business climates are favorable.

mc² commends the legislature for its passage of the Act. The DTE has the crucial task of implementing the intent and will of the legislature manifest in the Act. mc² looks forward to working with the DTE to ensure a truly competitive market for electricity in the Commonwealth. With this intent in mind, mc² offers the following specific comments concerning the proposed regulations:

SPECIFIC COMMENTS

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It is vital to note that Standard Offer Generation Service will be procured by the Distribution Company through a competitive bid. In other words, Standard Offer Generation Service is not really being provided by the Distribution Company, it is being provided by a Competitive Supplier with the Distribution Company acting as a market intermediary. Therefore, a Customer who returns to Standard Offer Generation Service is not truly returning to the Distribution Company. Rather, that Customer is actually moving from direct access with one Competitive Supplier to indirect access with another Competitive Supplier. The whole rationale behind electric industry restructuring is to foster competition by creating and maintaining a direct link between customers and suppliers. Hence, with the exception of low-income protections, a Customer who desires to change Competitive Suppliers should do so directly rather than through an intermediary. Hence, a customer who has previously received service from a Competitive

Supplier should be required to obtain a new Competitive Supplier instead of falling back on Standard Offer Generation Service. This would foster the continuing viability of the competitive market place and reduce reliance upon traditional LDC-type service.

ACTUAL LANGUAGE:

220 CMR 11.04(9)(b)(2)(d):

A Customer who has received Generation Service from a Competitive Supplier since the Retail Access Date is not eligible to receive Standard Offer Generation Service, except that (1) a Low-income Customer may receive Standard Offer Generation Service at any time, regardless of whether the Customer previously has received Generation Service from a Competitive Supplier; (2) a residential or small commercial and industrial Customer who has received Generation Service from a Competitive Supplier since the Retail Access Date is eligible to receive Standard Offer Generation Service by so notifying the Distribution Company within 120 days of the date when the Customer first began to receive Generation Service from a Competitive Supplier, provided that such notification occurs during the first year following the Retail Access Date; and (3) a Customer who has received Generation Service pursuant to an agreement with a Public Aggregator is eligible to receive Standard Offer Generation Service by so notifying the Distribution Company within 180 days of the date when the Customer first began to receive Generation Service through such agreement.

mc² PROPOSED LANGUAGE:

220 CMR 11.04(9)(b)(2)(d):

A Customer who has received Generation Service from a Competitive Supplier since the Retail Access Date is not eligible to receive Standard Offer Generation Service, except that ~~(1)~~ a Low-income Customer may receive Standard Offer Generation Service at any time, regardless of whether the Customer previously has received Generation Service from a Competitive Supplier.; ~~(2) a residential or small commercial and industrial Customer who has received Generation Service from a Competitive Supplier since the Retail Access Date is eligible to receive Standard Offer Generation Service by so notifying the Distribution Company within 120 days of the date when the Customer first began to receive Generation Service from a Competitive Supplier, provided that such notification occurs during the first year following the Retail Access Date; and (3) a Customer who has received Generation Service pursuant to an agreement with a Public Aggregator is eligible to receive Standard Offer Generation Service by so notifying the Distribution Company within 180 days of the date when the Customer first began to receive Generation Service through such agreement.~~

The proposed options for billing should be broader. Direct access should involve more than just the ability to supply a customer with electrons: it means the ability to directly communicate and interact with the customer. One of the most critical channels for that communication and interaction is the customer bill. The newly enacted statute does not require any delay in providing Competitive Suppliers with the ability to provide a single bill to their customers. Therefore, neither should the Department's regulations preclude or delay this option. Also, customer interest and the dynamics of the market may create a need in the future to allow other billing options and arrangements.

ACTUAL LANGUAGE:

220 CMR 11.04(10)(c):

Each Distribution Company shall offer two billing options to a Customer receiving Generation Service from a Competitive Supplier: (1) passthrough billing, under which the Customer would receive one bill for Distribution Service, Transmission Service (if appropriate), and the Transition Charge from the Distribution Company and a second bill for Generation Service from the Competitive Supplier; and (2) complete billing, under which the Customer would receive a single bill from the Distribution Company for Distribution Service, Generation Service, Transmission Service (if appropriate), and the Transition Charge.

mc² PROPOSED LANGUAGE:

220 CMR 11.04(10)(c):

At a minimum, Each Distribution Company shall offer ~~two~~ three billing options to a Customer receiving Generation Service from a Competitive Supplier: (1) complete billing from the Competitive Supplier, under which the Customer would receive a single bill from the Competitive Supplier for Distribution Service, Generation Service, Transmission Service (if appropriate) and the Transition Charge; ~~(1)~~ (2) passthrough billing, under which the Customer would receive one bill for Distribution Service, Transmission Service (if appropriate), and the Transition Charge from the Distribution Company and a second bill for Generation Service from the Competitive Supplier; and ~~(2)~~ (3) complete billing from the Distribution Company, under which the Customer would

receive a single bill from the Distribution Company for Distribution Service, Generation Service, Transmission Service (if appropriate), and the Transition Charge. Other billing options may be approved by the Department.

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If a Distribution Company is to inform a Customer when Generation Service has been initiated by a Competitive Supplier, the wording of that notice should be strictly informational.

ACTUAL LANGUAGE:

220 CMR 11.04(10)(d):

Each Distribution Company shall inform a Customer when Generation Service for the Customer has been initiated by a Competitive Supplier. This information shall be included on the first Distribution Company bill rendered to the Customer after such initiation.

mc² PROPOSED LANGUAGE:

220 CMR 11.04(10)(d):

Each Distribution Company shall inform a Customer when Generation Service for the Customer has been initiated by a Competitive Supplier. This ~~information~~ neutrally-worded informative statement shall be included on the first Distribution Company bill rendered to the Customer after such initiation.

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Termination of services can only occur when the customer is receiving service from the Distribution Company. Termination safeguards, therefore, need not apply to Competitive Supplier service. With Standard Offer Generation Service and Default Generation Service, the Department has in place the necessary backstops to ensure that no Residential Customer has electric service terminated without due process. If a Residential Customer chooses a Competitive Supplier and then this service becomes discontinued for any reason, the Customer has the ability to move back to the Distribution Company under

Default Generation Service. It is only at this point—when the Customer is back on Default Service through the regulated Distribution Company—that the safeguards codified in 220 CMR 25.00 need to be applied to the customer-supplier relationship to prevent an unreasonable termination of service.

ACTUAL LANGUAGE:

220 CMR 11.04(11)(a):

All residential Customers shall be protected from termination of Electric Service pursuant to 220 CMR 25.00.

mc² PROPOSED LANGUAGE:

220 CMR 11.04(11)(a):

All residential Customers shall be protected from termination of ~~Electric Service~~ Standard Offer Generation Service and Default Generation Service pursuant to 220 CMR 25.00.

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Comprehensive development and offering of new customer services and products is dependent on customer usage information—accurate, detailed and complete customer usage information. Otherwise, the full panoply of choices to consumers will not become available in the competitive market place. Indeed, no competitive purpose is served by limiting the amount of usage information that a Distribution Company must convey to a Competitive Supplier.

ACTUAL LANGUAGE:

220 CMR 11.04(12) Disclosure of Customer Usage Information:

(a) Each Distribution Company shall be required to provide a Customer's historic

usage information to Competitive Suppliers and Electricity Brokers that have received the required Customer authorization, as established in 220 CMR 11.05(4)(a). The type of usage information shall be as provided below.

1. Demand Customers. For Customers that have been billed at least in part on a demand basis during the 36-month period prior to the release of information, the historic usage information shall include, for the most recent 12 months, (a) the Energy consumption for each month, and (b) the highest demand level for each month as well as the average monthly demand for the month. The Distribution Company shall indicate if any of the Energy and demand measurements were not based on actual recorded usage, and provide a description of the method used to determine the estimated measurements.

2. Energy-only Customers. For Customers that have been billed on an Energy-only basis during the 36-month period prior to the release of information, the historic usage information shall include the monthly Energy consumption for the most recent 12 months. The Distribution Company shall indicate if any of the Energy measurements were not based on actual recorded usage and provide a description of the method used to determine the estimated measurements.

mc² PROPOSED LANGUAGE:

220 CMR 11.04(12) Disclosure of Customer Usage Information:

(a) Each Distribution Company shall be required to provide a Customer's historic usage information to Competitive Suppliers and Electricity Brokers that have received the required Customer authorization, as established in 220 CMR 11.05(4)(a). When requested by the Competitive Supplier or Electricity Broker, the Distribution Company shall convey its complete usage information for a particular Customer or Customers. At a minimum, the type of usage information conveyed by the Distribution Company shall be as provided below.

1. Demand Customers. For Customers that have been billed at least in part on a demand basis during the 36-month period prior to the release of information, the historic usage information shall include, for the most recent 12 months, (a) the Energy consumption for each month, and (b) the highest demand level for each month as well as the average monthly demand for the month. The Distribution Company shall indicate if any of the Energy and demand measurements were not based on actual recorded usage, and provide a description of the method used to determine the estimated measurements.

2. Energy-only Customers. For Customers that have been billed on an Energy-only basis during the 36-month period prior to the release of information, the historic usage information shall include the monthly Energy consumption for the most recent 12 months. The Distribution Company shall indicate if any of the Energy measurements were not based on actual recorded usage and provide a description of the method used to determine the estimated measurements.

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While the license process should be appropriately overseen, great care must be exercised in applying supervision and revocation sanctions. This is particularly the case in the emerging competitive energy market where there will be difficulties in accommodating business practices to new and complex regulations in an evolving market. Even the Department may not recognize the best efforts of Competitive Suppliers and may apply its licensing oversight in an overly severe manner. Also, suspension and revocation should not be used as a mechanism to inappropriately bring Competitive Suppliers under a level of regulatory control intended for monopoly utility companies. mc² would therefore recommend that the procedures set forth for license suspension and revocation be tempered.

ACTUAL LANGUAGE (Page A-21):

220 CMR 11.05 Competitive Supplier Requirements:

(1) Purpose and Scope. The purpose of this section is to establish the requirements applicable to all Competitive Suppliers and Electricity Brokers and to notify them that a license may be suspended, revoked, or refused renewal for material violation of statute or Department rules.

mc² PROPOSED LANGUAGE:

220 CMR 11.05 Competitive Supplier Requirements:

(1) Purpose and Scope. The purpose of this section is to establish the requirements applicable to all Competitive Suppliers and Electricity Brokers and to notify them that a license may only be suspended; or revoked; or refused renewal for material violation of statute or Department rules specifically applicable to Competitive Suppliers and Electricity Brokers, accompanied by lack of a good-faith effort on the part of the Competitive Supplier or Electricity Broker to promptly correct such material violations after notification is received from the Department.

ACTUAL LANGUAGE (Page A-23):

220 CMR 11.05(2)

(e) Information Disclosure. As a condition of maintaining or renewing a license, each Competitive Supplier shall comply with the requirements of G.L. c. 164, and 220 CMR 11.06 (3)(a) and 11.07(4)(c). Failure to comply with these regulations may result in suspension, revocation, or non-renewal of the Applicant's license.

mc² PROPOSED LANGUAGE:

220 CMR 11.05(2)

(e) Information Disclosure. As a condition of maintaining or renewing a license, each Competitive Supplier shall comply with the requirements of G.L. c. 164, and 220 CMR 11.06 (3)(a) and 11.07(4)(c). Failure to comply with these regulations, accompanied by lack of a good-faith effort to promptly correct non-compliance after notification by the Department, may result in suspension or revocation of the Applicant's license.

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Billing and termination requirements that have been applicable to regulated utilities need not be prescribed in the competitive marketplace. Rather than reintroduce regulations from the monopoly marketplace, the Department should be replacing regulation with competition and should not interpose itself unnecessarily between Competitive Suppliers and their Customers. The Department needs to recognize that 220 CMR 25.00, 27.00, 28.00 and 29.00 were established as protections against a *monopoly* provider, where the customer had no other service options and no other service providers. The situation has changed! We are now looking at a *competitive* environment for generation services. If a customer is unhappy with the billing practices of a long-distance

carrier or a credit card company, the customer can readily switch to a different carrier or obtain a different credit card. Likewise, a customer unhappy with the billing practices of a Competitive Supplier can readily switch to a different supplier, with an added safeguard not available in the long-distance or credit card markets: *the existence of Default Generation Service*. If enough customers become dissatisfied with a particular Competitive Supplier, the marketplace will mete out its own punishment: the company will be forced to change or go out of business. It's important to keep in mind that the only Competitive Suppliers a customer will be dealing with are those that have already been scrutinized and licensed by the Department. In summary, what is appropriate for a Distribution Company that retains its monopoly status is not appropriate for a Competitive Supplier that operates in an open marketplace.

ACTUAL LANGUAGE:

220 CMR 11.05:

(3) Billing and Generation Service Termination Requirements. Each Competitive Supplier that bills Retail Customers in accordance with the passthrough billing option described in 220 CMR 11.04(10)(c), shall comply with the Department's regulations set forth in 220 CMR 25.00, 27.00, 28.00, and 29.00 as provided below.

(a) Each Bill issued by a Competitive Supplier to a Retail Customer shall include separate lines for (1) electricity consumption, generation price (rate per kilowatthour), generation cost (total dollar amount owed), and (2) transmission price and transmission cost, when applicable.

(b) A Bill issued by a Competitive Supplier to a Retail Customer shall not be considered "due" under these regulations in less than 45 days from receipt. No disputed portion of the Bill shall be considered "due" if the Customer has filed a complaint which is pending with the Department, in accordance with 220 CMR 25.00 and 220 CMR 11.07.

(c) A Competitive Supplier may terminate Generation Service to a Retail Customer during the term of service only if a Bill is not paid within 48 days from receipt. Prior to termination of Generation Service, the

Competitive Supplier shall render a second request for payment not earlier than 27 days after the rendering of the Bill (i.e., the first request for payment). The second request for payment shall state the Competitive Supplier's intention to terminate Generation Service on a date not earlier than 48 days after the Customer's receipt of the Bill. The Competitive Supplier shall render a final notice of termination not earlier than 45 days after the Customer's receipt of the Bill. Such notice shall must be rendered at least 72 hours, but in no event more than 14 days prior to termination of Generation Service. The Competitive Supplier may terminate Generation Service if the Bill remains unpaid on the indicated termination date, except that a Competitive Supplier may not terminate Generation Service to a Customer if the unpaid Bill is the subject of a dispute resolution, in accordance with 220 CMR 25.00 and 220 CMR 11.07.

(d) A Competitive Supplier may terminate Generation Service at the end of the term of the contract for Generation Service.

mc² PROPOSED LANGUAGE:

220 CMR 11.05:

(3) Billing and Generation Service Termination Requirements. Each Competitive Supplier that bills Retail Customers in accordance with either the complete billing option or the passthrough billing option described in 220 CMR 11.04(10)(c), shall comply with the ~~Department's regulations set forth in 220 CMR 25.00, 27.00, 28.00, and 29.00 as provided below~~ specific billing terms and conditions agreed upon by the Customer and Competitive Supplier, provided that:

(a) Each Bill issued by a Competitive Supplier to a Retail Customer shall include separate lines for (1) electricity consumption, generation price (rate per kilowatt-hour), generation cost (total dollar amount owed), and (2) transmission price and transmission cost, when applicable.

~~(b) — A Bill issued by a Competitive Supplier to a Retail Customer shall not be considered "due" under these regulations in less than 45 days from receipt. No disputed portion of the Bill shall be considered "due" if the Customer has filed a complaint which is pending with the Department, in accordance with 220 CMR 25.00 and 220 CMR 11.07.~~

~~(b)(c) A Competitive Supplier may terminate Generation Service to a Retail Customer during the term of service only if a Bill is not paid within 48 days from receipt. Prior to termination of Generation Service, the Competitive Supplier shall render a second request for payment not earlier than 27 days after the rendering of the Bill (i.e., the first request for payment). The second request for payment shall state the Competitive~~

~~Supplier's intention to terminate Generation Service on a date not earlier than 48 days after the Customer's receipt of the Bill. The Competitive Supplier shall render a final notice of termination not earlier than 45 days after the Customer's receipt of the Bill. Such notice shall must be rendered at least 72 hours, but in no event more than 14 days prior to termination of Generation Service. The Competitive Supplier may terminate Generation Service if the Bill remains unpaid on the indicated termination date, except that a~~ A Competitive Supplier may not terminate Generation Service to a Customer if the unpaid Bill is the subject of a dispute resolution, in accordance with ~~220 CMR 25.00 and~~ 220 CMR 11.07.

~~(c) (d)~~ A Competitive Supplier may terminate Generation Service at the end of the term of the contract for Generation Service.

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The proscription against doing business with entities not licensed by the Commonwealth is overly broad and does not recognize the realities of providing electric service to a market. A service provider must have business relationships with many vendors and service providers that may have no relationship with the Commonwealth. The more appropriate focus of the Department is trying to protect against attempts by a Competitive Supplier or Electricity Broker to do business in the State of Massachusetts while circumventing the need to obtain a license. This is a reasonable concern, but it can be handled with specific language rather than an overly-broad regulation.

ACTUAL LANGUAGE:

220 CMR 11.05:

(5) Conducting business with unauthorized entities. A Distribution Company, Competitive Supplier or Electricity Broker may not do business with any Competitive Supplier or Electricity Broker that has not been licensed by the Department to do business in the Commonwealth pursuant to 220 CMR 11.05 (2).

mc² PROPOSED LANGUAGE:

220 CMR 11.05:

(5) Conducting business with unauthorized entities. A Distribution Company,

Competitive Supplier or Electricity Broker may not ~~do business with~~ use the services of any Competitive Supplier or Electricity Broker that has not been licensed by in such a manner as to circumvent the requirement of the Competitive Supplier or Electricity Broker to obtain a license from the Department to do business in the Commonwealth pursuant to 220 CMR 11.05 (2).

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For a Competitive Supplier operating in Massachusetts for the first time,
forecasted data may have to be used in place of actual data.

ACTUAL LANGUAGE:

220 CMR 11.06(2)(d)(1):

(b) Label reporting period. The label reporting period shall be the most recent one-year period prior to the reporting month for which resource portfolio information has been updated with the following exceptions:

1. If a Load-serving Entity has operated for less than a full year, but more than three months, the Load-serving Entity shall report the information that is available for the portion of the year the Load-serving Entity has operated.
2. If a Load-serving Entity has operated for less than three months, the Load-serving Entity shall report a reasonable estimate of its resource portfolio based on (a) the Load-serving Entity's known generating unit ownership and contracts, and (b) the average regional system mix.

mc² PROPOSED LANGUAGE:

220 CMR 11.06(2)(d)(1):

(b) Label reporting period. The label reporting period shall be the most recent one-year period prior to the reporting month for which resource portfolio information has been updated with the following exceptions:

1. If a Load-serving Entity has operated for less than a full year, but more than three months, the Load-serving Entity shall report the information that is available for the portion of the year the Load-serving Entity has operated.
2. If a Load-serving Entity has operated for less than

three months, the Load-serving Entity shall report a reasonable estimate of its resource portfolio based on (a) the Load-serving Entity's known or anticipated generating unit ownership and contracts, and (b) a reasonable forecast of the average regional system mix.

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The proposal to mail booklets annually to every Customer is an unnecessary expenditure of resources. Customers need information about their rights in two circumstances: (1) when they request such information, and (2) when they have either a perceived or actual dispute with a Competitive Supplier.

ACTUAL LANGUAGE:

220 CMR 11.06:

(5) Annual booklet. Any Competitive Supplier licensed by the Department to do business in the Commonwealth pursuant to 220 CMR 11.05 shall prepare an information booklet describing a Customer's rights under the provisions of G.L. c. 164. Competitive Suppliers shall annually mail this booklet to their Customers.

mc² PROPOSED LANGUAGE:

220 CMR 11.06:

(5) ~~Annual Customer rights booklet.~~ Any Competitive Supplier licensed by the Department to do business in the Commonwealth pursuant to 220 CMR 11.05 shall prepare an information booklet describing a Customer's rights under the provisions of G.L. c. 164. A Competitive Supplier shall ~~annually~~ mail this booklet to ~~their Customers~~; a Customer upon request, or upon written or verbal notification by the Customer of a billing or other dispute.

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As noted above, in respect of billing and termination practices rather than interposing regulations imported from the monopoly market, the Department should be replacing regulation with competition and should not interpose itself unnecessarily

between Competitive Suppliers and their Customers. As earlier noted, 220 CMR 25.00 was established as a protection against a *monopoly* provider of generation service, where the customer had no other service options and no other service providers. We are now looking at a *competitive* environment for generation service. If a customer is unhappy with the service terms and conditions of a particular Competitive Supplier, that customer will switch to another supplier who offers more favorable service terms and conditions. If enough customers become dissatisfied with that Competitive Supplier, the marketplace will mete out its own punishment: the company will be forced to change or go out of business. Also, it's important not to forget that the only Competitive Suppliers a customer will be dealing with are *those that have already been scrutinized and licensed by the Department*. Finally, customers will have an ultimate backstop not available in ordinary competitive markets: Default Generation Service. In summary, what is appropriate for a Distribution Company that retains its monopoly status is not appropriate for a Competitive Supplier that operates in an open marketplace.

ACTUAL LANGUAGE

220 CMR 11.07(4) Other Customer Complaints.

(a) All other complaints brought by a Customer against a Distribution Company, Competitive Supplier or Electricity Broker shall follow the procedures set forth in 220 CMR 25.02(4), except as provided below in 220 CMR 11.07(4)(b).

(b) Alternative Dispute Resolution.

1. Pursuant to G.L. c. 164, § 1F(2), each Distribution Company, Competitive Supplier, and Electricity Broker shall make available to Customers alternative dispute resolution procedures, including mediation, arbitration, facilitation or other dispute resolution procedures.

2. Allegation of Unfair or Deceptive Trade Practice. Pursuant to G.L. c. 164, § 102C, each Distribution Company, Competitive Supplier,

and Electricity Broker shall submit to arbitration upon the request of a Customer alleging that an unfair or deceptive trade practice has occurred. The Department also will make a voluntary mediation process available to consenting parties.

3. Alternative dispute resolution pursuant to 220 CMR 11.07(4)(b)(1) and (2) may only be requested after the Customer and Distribution Company, Competitive Supplier or Electricity Broker have attempted to resolve the dispute pursuant to 220 CMR 25.04(a).

mc² PROPOSED LANGUAGE:

220 CMR 11.07(4) Other Customer Complaints.

(a) All other complaints brought by a Customer against a Distribution Company shall follow the procedures set forth in 220 CMR 25.02(4), ~~except as provided below in 220 CMR 11.07(4)(b).~~ All other complaints brought by a Customer against a Competitive Supplier or Electricity Broker shall follow the specific terms and conditions agreed upon by the Customer and the Competitive Supplier or Electricity Broker. These terms and conditions shall comport with the procedures provided below in 220 CMR 11.07(4)(b).

(b) Alternative Dispute Resolution.

1. Pursuant to G.L. c. 164, § 1F(2), each Distribution Company, Competitive Supplier, and Electricity Broker shall make available to Customers alternative dispute resolution procedures, including mediation, arbitration, facilitation or other dispute resolution procedures.

2. Allegation of Unfair or Deceptive Trade Practice. Pursuant to G.L. c. 164, § 102C, each Distribution Company, Competitive Supplier, and Electricity Broker shall submit to arbitration upon the request of a Customer alleging that an unfair or deceptive trade practice has occurred. The Department also will make a voluntary mediation process available to consenting parties.

3. For a dispute between a Customer and a Distribution Company, ~~a~~ Alternative dispute resolution pursuant to 220 CMR 11.07(4)(b)(1) and (2) may only be requested after the Customer and Distribution Company; ~~Competitive Supplier or Electricity Broker~~ have attempted to resolve the dispute pursuant to 220 CMR 25.04(a). For a dispute between a Customer and a Competitive Supplier or Electricity Broker, alternative dispute resolution pursuant to 220 CMR 11.07(4)(b)(1) and (2) may only be requested after the Customer and Competitive Supplier or Electricity Broker have attempted to resolve the dispute in the manner specified in the agreed-upon terms and conditions.

CONCLUSION

A competitive market for electricity will benefit all customers of the Commonwealth. The DTE must promulgate regulations that will help ensure that the market for electricity is truly competitive. mc² offers the foregoing comments with this intent in mind. mc² thanks the DTE for the opportunity to comment on the proposed regulations.

Respectfully submitted,

Emmitt C. House
Attorney for mc² Inc.
701 East 22nd Street
Lombard, IL 60148-5072
(630) 691-2731
Fax: (630) 691-3827